

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JESSE CARL TOOMER

PLAINTIFF

v.

CAUSE NO. 1:20-cv-374-LG-RPM

TYRONE NELSON, et al.

DEFENDANTS

**MEMORANDUM OPINION AND ORDER
ADOPTING REPORT AND RECOMMENDATIONS**

BEFORE THE COURT are the [150] Report and Recommendations entered in this matter by Magistrate Judge Robert P. Myers, Jr. on May 18, 2023, after an omnibus hearing held on February 9, 2022. In the Report and Recommendations, the Magistrate Judge conducts a thorough analysis and recommends that four [119] [123] [125] [127] of the pending dispositive motions be granted and that the remaining [121] Motion to Dismiss be denied. The Court hereby adopts the Report and Recommendations in full.

On December 21, 2020, Plaintiff, a prisoner proceeding *pro se*, filed this action under § 1983 and state law, alleging constitutional violations in connection with his incarceration, seeking declaratory and injunctive relief and monetary damages. He asserts claims for cruel and unusual punishment, violation of due process, denial of counsel, religious discrimination, and retaliation. With respect to his claims, Plaintiff alleges both conditions-of-confinement and inadequate medical and dental care.

The Report and Recommendations concerns five dispositive Motions filed by the Defendants in this matter. First, Defendants Jonathan Blakeney and Jennifer

Bobo [119] move to dismiss one of Plaintiff's conditions-of-confinement claims; second, Defendants Geneva Drummond and Mackenzie Stover [121] move to dismiss Plaintiff's inadequate medical care claim; third, Defendants Mike Ezell and Tyrone Nelson [123] seek summary judgment on Plaintiff's remaining conditions-of-confinement claims; fourth, Defendants Amanda Harris and Vital Core Medical [125] seek summary judgment concerning another inadequate medical care claim; and finally, Defendant Summit Food Services [127] asks for summary judgment on Plaintiff's religious freedom claims.

On May 18, 2023, the Magistrate Judge issued a [150] Report and Recommendations. He recommends that four of the five Motions be granted, leaving only Plaintiff's inadequate medical care claim against Defendants Geneva Drummond and Makenzie Stover. After entry of the Report and Recommendations, Plaintiff [151] moved for an extension of time to object, which was granted in part, leaving Plaintiff until June 19, 2023, to respond. Plaintiff has failed to file Objections or any response.

Where no party has objected to the Magistrate Judge's report and recommendation, the Court need not conduct a *de novo* review of it. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court need only satisfy itself that there is no clear error on the face of the record. *Douglass v. United Serv. Auto Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996). Having conducted the required review, the Court finds that

Judge Myers's well-reasoned Report and Recommendations are neither clearly erroneous nor contrary to law.

IT IS THEREFORE ORDERED AND ADJUDGED that the [150] Report and Recommendations are **ADOPTED** as the opinion of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that the [119] Motion to Dismiss filed by Defendants Jonathan Blakeney and Jennifer Bobo be **GRANTED**. Defendants Blakeney and Bobo are **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED AND ADJUDGED that the [121] Motion to Dismiss filed by Defendants Geneva Drummond and Makenzie Stover be **DENIED**.

IT IS FURTHER ORDERED AND ADJUDGED that the [123] Motion for Summary Judgment filed by Defendants Mike Ezell and Tyrone Nelson be **GRANTED**. Defendants Ezell and Nelson are **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED AND ADJUDGED that the [125] Motion for Summary Judgment filed by Defendants Amanda Harris and Vital Core Medical be **GRANTED**. Defendants Harris and Vital Core Medical are **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED AND ADJUDGED that the [127] Motion for Summary Judgment filed by Defendant Summit Food Services be **GRANTED**. Defendant Summit Food Services is **DISMISSED WITH PREJUDICE**.

SO ORDERED AND ADJUDGED this the 24th day of July, 2023.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE